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Wisconsin Department of Transportation

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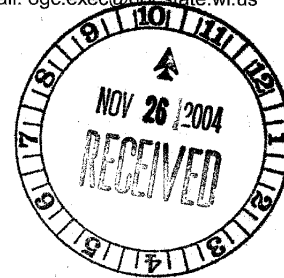
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Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board, Room 1324
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: **STB Docket No. AB-57 (Sub-No. 55X)** Soo Line Railroad Company Abandonment of
Trackage Located Near West Allis, Milwaukee County, WI – Petition for Notice of Interim
Trial Use

Dear Mr. Williams:

Enclosed for filing are the original and ten (10) copies of the Wisconsin Department of
Natural Resources Petition for Notice of Interim Trail Use.

We are making this application on behalf of the general public. Wisconsin Department of
Natural Resources is a governmental entity and exempt from the filing fee under 49 C.F.R. 1002.2
(e)(1).

Please date stamp and return the duplicate copy of this transmittal letter in the prepaid, return
mail envelope for verification of receipt. Thank you.

By my signature below, I certify service upon Annie Littlefield, 150 South 5th Street, Suite
2300, Minneapolis, MN 55402.

Sincerely,

Allyn Lepeska
Attorney

Enclosures

pc: Vicki Schaefer
Annie Littlefield
Richard Steffes
Craig Barklar
Gloria McCutcheon

FILING FEE WAIVED

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB-57 (SUB-NO. 55X)

SOO LINE RAILROAD COMPANY –
ABANDONMENT OF TRACKAGE LOCATED
NEAR WEST ALLIS, MILWAUKEE COUNTY, WISCONSIN

**WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PETITION FOR NOTICE OF INTERIM TRAIL USE**

BACKGROUND

On October 21, 2002, the Soo Line Railroad Company, doing business as Canadian Pacific Railway, a Class I common carrier (SOO) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the requirements of 49 U.S.C. § 10903 for the abandonment of a 5-mile section of the West Allis Line, extending between milepost 88.2+/- near State Highway 41 crossing in Milwaukee) and milepost 93.2+/- (near North 123rd Street in Wauwatosa) and traversing through United States Postal Service Zip Codes 53215 (in Milwaukee), 53295 (in West Allis), and 53226 (in Wauwatosa), all in Milwaukee County, Wisconsin (Rail Line). The Rail Line is located within Sections 30, 31, 32, 33, 24 and 35, Township 7 North Range 21 East, in Milwaukee County.

On November 3, 2004, the Wisconsin Department of Natural Resources (WisDNR) signed a Statement of Willingness to Accept Financial Responsibility pursuant to 49 C.F.R. § 1152.29. This statement is for the segment of Soo railroad from West Milwaukee Milepost 88.2 to West Allis Milepost 99.2, a distance of 5 miles located in the Milwaukee County, Wisconsin.

PURPOSE

Wisconsin Department of Transportation (WisDOT) petitions to obtain a notice of interim trail use for interim highway, bicycle, pedestrian and other trail purposes and railbanking pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 for WisDNR for specified segments of the right of way

involved in this proceeding. WisDNR will use or preserve the land corridor and related real property for interim public transportation and recreational purposes (including highway, pedestrian and other trail), subject to restoration for railroad purposes. WisDOT and WisDNR have agreed to work cooperatively to acquire and use the right of way.

STATE AND CITY RESPONSIBILITIES

WisDNR is the lead state agency for designating, acquiring, developing for public use and maintaining a system of state trails as part of the state park system for use by equestrians, bicyclists, cross country skiers or hikers. Secs. 23.09(2)(d)12, 23.175(2)(a) and 23.30(1), Wis. Stats. It is required to encourage other state agencies to participate in the planning, establishing, developing and maintaining of state trails. Sec. 23.175(2)(b), Wis. Stats. WisDNR is authorized to spend funds with the approval of the Governor for the acquisition of lands. Secs. 20.914 and 23.14, Wis. Stats.

WisDOT is the designated state agency in rail matters in the State of Wisconsin. 49 U.S.C. Appx. § 1654(a) (formerly § 1654(j)), 49 C.F.R. § 266.1 and Ch. 85, Wis. Stats. WisDOT is responsible for all state and federally-aided highway construction and all state and federally-aided airport construction in Wisconsin. Secs. 84.01(2) and 114.32(1) and (5), Wis. Stats. WisDOT has the statutory first right to acquire for present or future transportation, recreational or scenic purposes any property used in operating a railroad that is abandoned in Wisconsin. Sec. 85.09(2), Wis. Stats.

WisDOT has state statutory authority to incorporate trails into the highway right-of-way in sec. 84.06(11), Wis. Stats.:

"(11) State Trails. As a part of any highway improvement or as a separate project under this section, a portion of a hiking trail, cross-country ski trail, bridle trail or bicycle trail under the management of a state agency, municipality or nonprofit may be incorporated into the highway right-of-way, and facilities for safe crossing of the highway may be provided."

WisDNR and WisDOT need the interim trail use designation to fulfill federal and state transportation and environmental responsibilities.

NOTICE OF INTERIM TRAIL USE

WisDOT respectfully requests that the Board provide WisDNR a notice of interim bicycle, pedestrian and other trail use and rail banking condition to accomplish the above public purposes. WisDOT is interested in having WisDNR acquire and use the right of way of the rail line being abandoned for interim bicycle, pedestrian or other trail use and rail banking.

Exhibit 1 consists of a map showing the location of all the needed property in Milwaukee County, Wisconsin.

Exhibit 2 is the required Statement of Willingness by the WisDNR to assume full responsibility for management of the property.

WisDNR's acquisition of the corridor for present and future transportation purposes as stated above is consistent with all Congressional purposes and neither abandonment nor discontinuance permitted by the STB conditioned as requested by WisDNR would be inconsistent with or disruptive of potential future rail use.

CONCLUSION

WisDOT respectfully requests the Board to issue a Notice of Interim Trail Use for the land corridor and related real property, including bridge structure, for a segment of Soo railroad from West Milwaukee Milepost 88.2 to West Allis Milepost 99.2, a distance of 5 miles located in the Milwaukee County, Wisconsin for interim trail use and rail banking, pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 to the WisDNR. This will allow all forms of transportation to be provided in a unified, interconnected, economically-efficient, and environmentally sound manner.

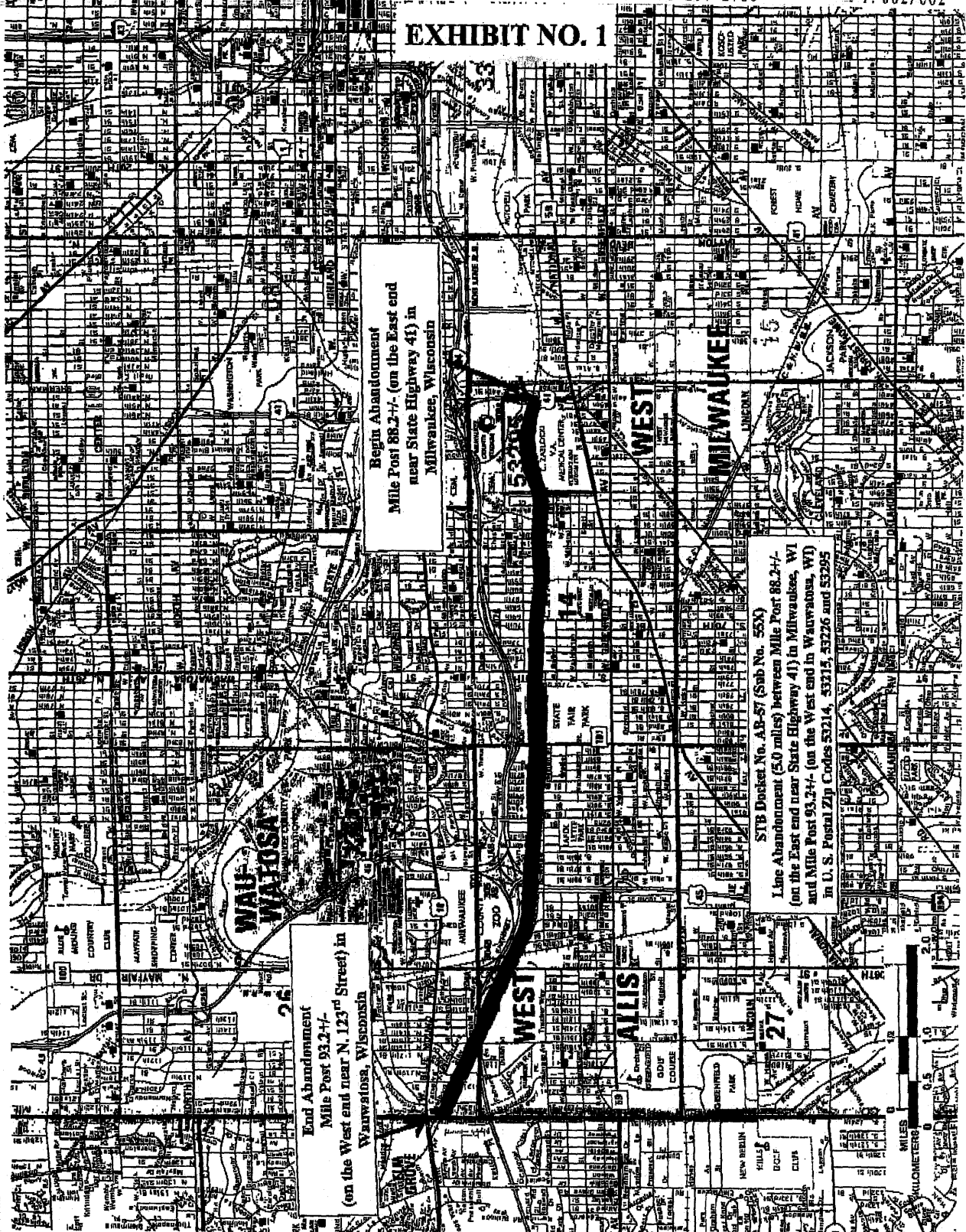
Respectfully submitted,



Allyn Lepeska, State Bar No. 1013474
Wisconsin Department of Transportation
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Madison, WI 53707-7910
(608) 266-0253

Attorney for Wisconsin Department of Transportation

EXHIBIT NO. 1



BEFORE THE
SURFACE TRANSPORTATION BOARD

SOO LINE RAILROAD COMPANY
DBA CANADIAN PACIFIC RAILWAY COMPANY
ABANDONMENT EXEMPTION IN
MILWAUKEE COUNTY

STATEMENT OF WILLINGNESS TO ACCEPT RESPONSIBILITY BY
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
PURSUANT TO 49 CFR 1152.29

In order to establish interim trail use and rail banking under 16 USC 1247(d) and 49 CFR 1152.29, the State of Wisconsin, Department of Natural Resources (WDNR) is willing to assume full responsibility for management of the property it acquires from the present owner and operator, Soo Line Rail Road, DBA Canadian Pacific Railway Company. Upon acquisition, WDNR is willing to assume full responsibility for its operations on the property and for the payment of any taxes or assessments that thereafter may be lawfully levied against it. The segment for which WDNR is making this Statement of Willingness is the following portion of the line:

West Milwaukee Milepost 88.2 to West Allis Milepost 93.2, a distance of 5 miles
in Milwaukee County, Wisconsin.

A map depicting the property that is to be acquired by WDNR is attached to this pleading as Exhibit No. 1.

WDNR acknowledges that use of the property is subject to the WDNR continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the property for rail service. A copy of this statement is being served on the railroad, Soo Line Railroad Company, DBA Canadian Pacific Railway Company, on the same date it is being served on the Surface Transportation Board.

Scott Hassett
State of Wisconsin, Department of Natural Resources
By: Scott Hassett, Secretary

11-3-04
Date

Post-It® Fax Note	7671	Date	11-3-04	# of pages	2
To	Vicki Scharf	From	Dez P. [Signature]		
Co./Dept.	DOT	Co.			
Phone #		Phone #			
Fax #	267-3567	Fax #			

EXHIBIT

2

EXHIBIT NO. 1

